

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CONNECTU LLC,

Plaintiff,

v.

MARK ZUCKERBERG, EDUARDO SAVERIN,
DUSTIN MOSKOVITZ, ANDREW MCCOLLUM,
CHRISTOPHER HUGHES, and THEFACEBOOK,
INC.,

Defendants.

CIVIL ACTION NO. 1:04-CV-11923
(DPW)

District Judge Douglas P. Woodlock

MARK ZUCKERBERG, and THEFACEBOOK,
INC.,

Counterclaimants,

v.

CONNECTU LLC,

Counterdefendant,

and

CAMERON WINKLEVOSS, TYLER
WINKLEVOSS, and DIVYA NARENDRA,

Additional Counterdefendants.

**DEFENDANTS' JOINT MOTION TO COMPEL TESTIMONY FROM
CONNECTU LLC RESPONSIVE TO DEFENDANTS' AMENDED 30(B)(6) NOTICE**

I. JOINT MOTION TO COMPEL

For the reasons set forth in the accompanying Memorandum, Defendants Mark Zuckerberg, Dustin Moskovitz, Andrew McCollum, Christopher Hughes, and TheFacebook, Inc.¹ (“The Facebook Defendants”) and Defendant Eduardo Saverin hereby collectively move to compel the Plaintiff, ConnectU LLC (“ConnectU”) to comply with Federal Rule of Civil Procedure 30 provide testimony responsive to Defendants' Amended 30(b)(6) notice.

Specifically, Defendants move the Court to compel ConnectU to provide the following:

- (1) to compel ConnectU to “make a conscientious good-faith endeavor to designate the persons having knowledge of the matters sought ... *and to prepare those persons in order that they can answer fully, completely, unequivocally, the questions posed* ... as to the relevant subject matters,” *Calzaturificio S.C.A.R.P.A S.P.A. v. Fabiano Shoe Co.*, 201 F.R.D. 33, 36 (D. Mass. 2001) (emphasis added), for at least an additional four hours,
- (2) to instruct ConnectU’s counsel that he is not entitled to “improperly object[] to the form of the question by either suggesting what he apparently believe[s] to be an appropriate answer to his client or himself testifying,” or “to act as intermediary, interpreting questions, and deciding which questions the witness should answer,” or to make other improper objections. *Id.*, at 40-41, *quoting Johnson v. Wayne Manor Apts.*, 152 F.R.D. 56, 59 (E.D. Pa. 1993) (internal quotes omitted), and
- (3) to order that ConnectU “*shall designate* one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf,” for topics 7, 8 and 9 in Defendants’ 30(b)(6) Notice. Fed. R. Civ. P. 30(b)(6) (emphasis added).

II. REQUEST FOR ORAL ARGUMENT

Defendants believe that oral argument may assist the Court, and wish to be heard on the

issues presented in this Motion and the accompanying Memorandum.

III. PROPOSED ORDER

A proposed Order is submitted with this Motion.

IV. CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2) AND F.R.C.P. 37(A)(2)(B)

Counsel for Defendants certifies that pursuant to Local Rule 7.1(a)(2) and F.R.C.P. 37(a)(2)(B) they met and conferred with counsel for ConnectU regarding this motion. The Facebook Defendants' counsel (Monte M.F. Cooper), Eduardo Saverin's counsel (Robert Hawk), and Plaintiff's counsel (John F. Hornick and Troy Grabow) met and conferred to discuss the issue addressed in this Motion. Messrs. Cooper and Hawk followed up the teleconference with a letter to Mr. Hornick, dated September 12, 2005, reiterating their position and identifying portions of the transcript where ConnectU failed to fulfill its obligations under the Federal Rules of Civil Procedure. On September 23, 2005, a teleconference occurred between the Facebook Defendants' counsel (Joshua Walker and Kenneth Halpern) and ConnectU's counsel (Mr. Hornick). Despite the conference, the parties were unable to resolve or narrow the issues.

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¹ Defendant Eduardo Saverin is represented by separate counsel in this matter.

Dated: October 4, 2005.

Respectfully submitted,

/s/ I. Neel Chatterjee /s/

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Dated: October 4, 2005.

Respectfully submitted,

/s/ Robert Hawk /s/

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